

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 11-51079

Plaintiff,

v.

SENIOR U.S. DISTRICT JUDGE
ARTHUR J. TARNOW

BARBARA MITCHELL,

U.S. MAGISTRATE JUDGE
R. STEVEN WHALEN

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION [21] AND DENYING
DEFENDANT'S MOTION TO SET ASIDE RESTITUTION [16]**

Ms. Mitchell pled guilty to conspiracy to commit credit card fraud on January 9, 2001. On May 8, 2001, the Court ordered her to pay \$1,500,000 in restitution, jointly and severally, with 14 co-defendants. She filed a motion to set aside the Court's order of restitution on May 5, 2012 [Dkt. 16]. A hearing was held on February 5, 2013.

On January 18, 2019, the Magistrate Judge issued a Report and Recommendation (R&R) advising the Court to deny the motion [21]. Though Ms. Mitchell pleads economic hardship, the R&R cites 18 U.S.C. § 3664(f)(1)(A) for the

proposition that the restitution order was final, and that the Court has no authority to set it aside. Plaintiff has not objected to the R&R.

The Court having reviewed the record, the Report and Recommendation [21] is hereby **ADOPTED** and entered as the findings and conclusions of the Court.

IT IS ORDERED that Defendant's Motion to Set Aside Restitution in Criminal Case 00-80318-13 [16] is **DENIED**.

SO ORDERED.

Dated: March 7, 2019

s/Arthur J. Tarnow
Arthur J. Tarnow
Senior United States District Judge